

This Page Is Inserted by IFW Operations
and is not a part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

**As rescanning documents *will not* correct images,
please do not report the images to the
Image Problem Mailbox.**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:) Examiner:
Nils ALVEBY, et al.) Group Art Unit:
Serial No.: 10/800,968)
Filed: March 15, 2004)
Title: A TEATCUP LINER, A TEATCUP)
AND A MILKING MEMBER)

TRANSMITTAL

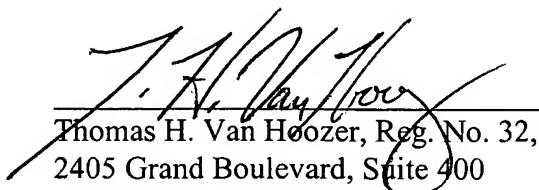
Transmitted herewith is/are: Transmittal (1 pg); Petition to Obtain Filing Date (5 pages); Exhibits: Copy of Notice of Incomplete Nonprovisional Application (2 pgs); Copy of Transmittal of March 15, 2004 (1 pg); Copy of Utility Patent Application Transmittal (3 pgs); Copy of return postcard (1 pg); Copy of Express Mail Log (2 pgs); Three (3) drawing pages; Signed Declaration (2 pgs); Signed Power of Attorney (2 pgs); Check in the amount of \$130.00 for late filing of Power of Attorney; Check in the amount of \$130.00 for filing of Petition; and return postcard. This/These document(s) is/are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to: Mail Stop , Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 9, 2004.

EL 973754783 US

Respectfully submitted,

HOVEY WILLIAMS LLP

by


Thomas H. Van Hooser, Reg. No. 32,761
2405 Grand Boulevard, Suite 400
Kansas City, Missouri 64108
(816) 474-9050

ATTORNEYS FOR APPLICANT

(Docket No. 32224-CIP1)



07-12-04

IFW DAK SL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: ALVEBY, Nils et al.)
Serial No.: 10/800,968)
Filed: March 15, 2004)
Title: A TEATCUP LINER, A TEATCUP AND)
A MILKING MEMBER)
Examiner:
Group Art Unit:
)

MAIL STOP PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION PURSUANT TO RULE 1.181 FOR REVIEW OF NOTIFICATION OF
INCOMPLETE NONPROVISIONAL APPLICATION AND TO CORRECT THE
ALLEGED OMISSION OF ITEMS AND EVIDENCE OF THE INCLUSION OF THE
ALLEGEDLY OMITTED ITEMS TO OBTAIN A FILING DATE IN THE
APPLICATION AS ORIGINALLY FILED**

1. The above-referenced application was filed with the U.S. Patent and Trademark Office on March 15, 2004 by Express Mail and assigned Application Number 10/800,968.
2. The Notice of Incomplete Nonprovisional Application was mailed June 1, 2004 and contained a notice that the required drawings were not included with the application as filed. The Notice also indicated that the oath or declaration as submitted is unsigned. The Notice indicated that a filing date had not been accorded to the application. A copy of the Notice of Incomplete Nonprovisional Application is included herewith as Exhibit A.

Application Serial No. 10/800,968

Petition in Response to Notice of Incomplete Nonprovisional Application

July 9, 2004

3. Applicants assert that only the drawings were necessary to be included with the application in regard to the article claims (see, for example, MPEP §601.01(f)), and that the inclusion of a signed declaration or oath is not a prerequisite to obtaining a filing date for the application pursuant to 35 U.S.C. §111(a)(3) which provides that the fee and oath may be submitted after the specification and required drawing and claim. See also 37 C.F.R. §1.53(b) which provides, in pertinent part:

The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section, is the date on which a specification as prescribed by 35 U.S.C. §112 containing a description pursuant to §1.71 and at least one claim pursuant to §1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office.

See also 37 C.F.R. 1.53(f) which provides that if the oath or declaration is not included in the application as filed, the applicant will be notified and given a period of time to file an oath or declaration and pay the surcharge as required by § 1.16(e) to avoid abandonment.

4. As evidence of the inclusion of the all the required items with the application as originally filed, applicants provide herewith as Exhibit B a copy of the Transmittal including the Certificate of Mailing by Express Mail of the "Express Mail Transmittal (1 pg.; Patent Application Transmittal (4 pgs.); Continuation in Part Application including specification, claims and abstract (14 pages); Three (3) drawing sheets; Unexecuted Declaration (2 pgs); Check in the amount of \$770.00; and return postcard. Additionally,

Application Serial No. 10/800,968

Petition in Response to Notice of Incomplete Nonprovisional Application
July 9, 2004

applicant submits herewith as Exhibit C a copy of the Patent Application Transmittal showing the inclusion of all the required items and the fee computation. As further evidence of the inclusion and receipt of all of the foregoing items, including the drawings, applicant provides a copy of the return postcard (Exhibit D) which sets forth the required items above, including "Three (3) Drawing sheets." The postcard receipt bears the serial number and receipt date of "031504" and does not exclude any items from those listed. "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." MPEP § 503.

5. Each of Exhibits B, C and D specifically notes that three (3) drawing sheets were included with the application as originally filed.
6. Applicants further submit herewith as Exhibit E the Express Mail Log of Hovey Williams LLP for March 15, 2004 which notes that this application was mailed via Express Mail on March 15, 2004.
7. Applicants have thus demonstrated not only the mailing of the required drawing sheets (3 sheets) but also that those drawings were in fact received by the Patent Office as of March 15, 2004. It thus appears that the drawings for this application have been misplaced by the Patent Office. For the convenience of the Patent Office, applicant submits herewith as Exhibit F three (3) sheets of drawings for incorporation into the official Patent Office file for application number 10/800,968 in substitution of the drawings previously submitted but evidently lost or misplaced by the Patent Office. These include drawing

Application Serial No. 10/800,968

Petition in Response to Notice of Incomplete Nonprovisional Application
July 9, 2004

figures 1, 2, 3, 4, 5, 6, and 7 as originally referenced in the specification and totaling three

(3) drawing sheets.

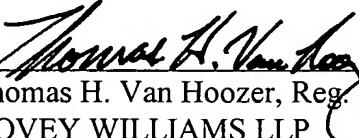
8. With regard to the unexecuted oath or declaration, as set forth above, the oath or declaration is not necessary for the application to be accorded a filing date. 35 U.S.C. §111; 37 C.F.R. § 1.53; MPEP §601.01(a). Applicants submit herewith (labelled as Exhibit G and requested to be incorporated into the official Patent Office file) the required declaration in the form of a Declaration executed by the inventors., accompanied by a check in the amount of \$130.00 for the surcharge required by 37 C.F.R. §1.16(e) for its late submission. Applicants also submit herewith the Power of Attorney executed for the assignee, and a copy of the assignment submitted concurrently herewith.
9. Accordingly, the evidence submitted herewith conclusively demonstrates that the drawing figures 1, 2, 3, 4, 5, 6 and 7 (three drawing sheets) were included in the application as originally filed and actually received by the Patent and Trademark Office, and applicant respectfully submits that all requirements were met to accord the application a filing date of March 15, 2004. In addition, applicant has demonstrated that an executed declaration was not required in order to accord this application the filing date of March 15, 2004, but the Declaration required to complete the application file, together with the Power of Attorney, is being submitted herewith. Accordingly, it is requested that a filing receipt issue for this application reflecting a filing date of March 15, 2004.

Application Serial No. 10/800,968

Petition in Response to Notice of Incomplete Nonprovisional Application
July 9, 2004

9. A check in the amount of \$130.00 for the petition fee required by 37 C.F.R. 1.17(h) is submitted herewith.
11. This Petition is submitted on July 9, 2004, and thus within the two-month period following the mailing date set forth in the Notice of Incomplete Nonprovisional Application mailed June 1, 2004.
10. Any additional fees due in connection with this submission may be charged to Deposit Account 19-0522.

Respectfully submitted


Thomas H. Van Hoozer, Reg. No. 32,761
HOVEY WILLIAMS LLP
Suite 400, 2405 Grand Boulevard
Kansas City, Missouri 64108
Phone: (816) 474-9050
Attorneys for Applicant

(Docket No. 32224-CIP1)